

[an expanding tubular section having a first narrow end adjoining the open end of the first tubular section and having a second wider end;  
a second tubular section having a first end adjoining the wider end and having a second end;]  
a first wing part attached to the [second] open end of the [second] tubular section;  
a second wing part attached to the [second] open end of the [second] tubular section and disposed opposite to the first wing part;  
placing a dental instrument into the protective covering;  
pulling the wing parts backward toward the closed end; and  
removing the dental instrument from the protective covering.

### **REMARKS**

Claims 1, 3 through 9 continue to be in the case.

Claim 2 is being canceled.

Claims 3, 4 and 6 are being amended.

## DETAILED ACTION

The Office Action of June 5, 2002 states that a supplemental amendment was filed on February 9, 2002, however, was not matched with this application when the Final Rejection was mailed on March 6, 2002, as such, the Final Rejection is hereby withdrawn and the amendments of February 19, 2002 and of May 13, 2002 have been entered and an action on the merits of all of the claims follows.

### Claim Rejections - 35 USC § 112:

Claims 2-5 and 9 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In claims 2 and 3, an end in the shape of a "semi-sphere" was not disclosed in the original disclosure and constitutes improper new matter. The drawing shown a curved end, however, there is no teaching that the cure is part of a sphere.

Applicant appreciates the fact that the Final Rejection has been withdrawn.

Applicant respectfully traverses the rejection of claims 2-5, and 9 under 35 U.S.C. 112, first paragraph. The present application Drawings (Fig.1) clearly shows semi-circle shape of the protective covering from the side opposite to the open ends (or inserting hole

3). Claim 3 of the present application also requires a semi-circle shape of the sheet of the covering. It's logical conclusion from the sentence: "elongated elastic sleeve 1 with an elliptical cross-section between application" (claim 1 of the present application). When sleeve after application becomes round in cross-section, then the end sheet will have more or less round shape.

Wording about the shape of a "semi-sphere" is only in claim 2 which is being canceled from the present application. Therefore, the "semi-circle shape" was disclosed in the original present application and does not constitute improper new matter.

The Office Action continues that in claim 2, a wing angle of "not more than 180 degrees" was not disclosed in the original disclosure and constitutes improper new matter.

As stated above, claim 2 is being canceled from the present application

The Office Action further states that in claim 3, rectangular sheets with edges, trapezoidal sheets with edges and wing sheets and opposing sheets that are joined sealingly at free edges were not disclosed in the original disclosure and constitute improper new matter.

Claim 3 is being amended to obviate the rejection.

The Office Action notes that in claim 9, "rolling" was not disclosed in the original disclosure and constitutes improper new matter.

Applicant respectfully traverses. Claim 1 (original) of the present application says: "There is, an axis cutting through its lateral side in plane of roll, of some length...". The

Description says absolutely the same (p.2, line 1 and p.3 lines 24-25). Then the Description says (p.4 lines 11-12): “moving it in a plane of the protective cover’s roll axis.” Thus, So, rolling was disclosed in the original present application and does not constitute improper new matter.

#### Claim Rejections - 35 USC § 103

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eisner et al (4728290) in view of Stearns (6095811) and Curry (1742061).

Eisner shows an elastic protective covering 10 made of a thermoshrinkable material, column 9, lines 1525. The specific tolerance used is an obvious matter of choice in the degree of a known parameter to one of ordinary skill in the art looking to find the best match for the intended instrument. Further the tolerance that the sleeve may make with an inferentially claimed instrument is an obvious matter of choice in the use of the sleeve with an inferentially claimed element. Eisner does not show an elliptical shape. Stearns shows a non-round cross section, see Fig. 2. It would be obvious to one of ordinary skill in the art to modify Eisner to include a non-round shape as shown by Stearns in order to better fit the intended instrument.

Applicant respectfully traverses. Stearns reference says only about “a flexible protective sheath for loosely covering...” (claim 1 of the Stearns, col. 6, line 7), but says

nothing about elliptical shape of the protective covering, as claim 1 of the present application clearly requires. As Stearns reference does not provide the present application claim 1 requirements, then nothing could be combined with Eisner reference.

The Office Action continues that the above combination does not show hinged ends. Curry shows two hinged ends 9, 10, see Fig. 5. It would be further obvious to one of ordinary skill in the art to modify the above combination to include two hinged ends as shown by Curry in order to better cover the instrument.

Applicant respectfully traversed. Claim 1 of the present application clearly requires that flat hinged laps 4 are created on a side of the inserting hole 3 (open end) of the covering sleeve 1. In contrast to this requirement, the Curry reference teaches that tongues 9 and 10 are formed the closed end of the covering protector: "The inward projection and securement of the tongue 9 and the outward overlapping secured folded disposition of the tongues 10, provide a tuck at the closed end of the envelope or protector..." (p.2, lines 24-28).

#### Specification

New terminology used in the claims must find correspondence with the specification, for example, first and second tubular sections and an expanding tubular section. All new terminology must be checked. No new matter may be added to the claims or specification.

Applicant appreciates the above-mentioned remarks and amends claims of the present application to correspond to the Specification.

Reconsideration of all outstanding rejections is respectfully requested.

All claims as presently submitted are deemed to be in form for allowance and an early notice of allowance is earnestly solicited.

Respectfully submitted,  
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